



W.A.No.2320 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 30.07.2024

PRONOUNCED ON : 19.08.2024

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.A.No.2320 of 2021

and

CMP.Nos.14704 & 14705 of 2021

Mark Donald Carron,

... Appellant

Vs.

1. The State Government of Tamil Nadu,
Rep. by its Secretary
Education Department (Higher Education)
Fort St. George, Chennai-600 009.
2. The Director of Higher Secondary School Education,
College Road, DPI Compound,
Nungambakkam, Chennai-600 006.
3. The Joint Director of Higher Secondary School Education,
College Road, DPI Compound,
Nungambakkam, Chennai-600 006.
4. The Chief Educational Officer,
Office of the Chief Educational Officer,
Egmore, Chennai-600 008.
5. The District Educational Officer, (WEST),
DPI Compound,
Nungambakkam, Chennai-600 006.



W.A.No.2320 of 2021

6. The Correspondent,
St. George's Anglo-Indian Higher Secondary School and Orphanage
738, Periyar EVR Salai,
Shenoy Nagar, Chennai-600 030.
7. Wesly Hudson

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 09.08.2021 made in W.P.No.25800 of 2019.

For Appellant : Mrs.G.Thilagavathi
Senior Counsel
for Mr.R.Gopinath

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader for R1 to R5
Mr.V.Prakash
Senior Counsel
for Mr.Adrian D.Rozario for R6
Mr.G.Sankaran
Senior Counsel
for Mr.S.Nedunchezhiyan for R7

J U D G M E N T

[Judgment of the Court was made by **C.KUMARAPPAN, J.**]

The instant writ appeal has been filed by the writ petitioner assailing the order of dismissal passed in WP.No.25800 of 2019.

2. The brief facts which give rise to the instant writ petition is that, the petitioner was initially appointed as a Junior Grade Secondary Grade Teacher



W.A.No.2320 of 2021

WEB COPY

at St Matthias Anglo-Indian Higher Secondary School, Vepery, Chennai with effect from 29.08.2003. Thereafter, he was promoted and confirmed as BT Assistant in the English subject. While so, the 6th respondent-Management called for applications during April 2018 for the post of Headmaster. Pursuant to the said notification, when the petitioner applied, amongst the other candidates, the 6th respondent has selected the petitioner as Headmaster of St George's Anglo-Indian Higher Secondary School. Thereafter, he was appointed as the Headmaster of School with effect from 01.06.2018. The appointment was forwarded to the 4th respondent for approval. However, the 4th respondent has not granted the approval on the ground that the petitioner did not possess the required qualification qua Post Graduate service qualification and the said rejection order dated 22.08.2019 is under challenge in the writ petition.

3. The said writ petition was resisted by the 4th respondent, by contending that the petitioner was initially appointed as a Junior Grade Secondary Grade Teacher with consolidated pay with effect from 29.08.2003, and he was brought to regular scale of pay of Secondary Grade Assistant with effect from 01.06.2006. Thus, according to the 4th respondent, the



W.A.No.2320 of 2021

petitioner was serving as a Middle Grade Teacher with effect from 01.06.2006. It is also the submission of the 4th respondent that by virtue of G.O.Ms.No.1091/Fin(Pc) department dated 15.06.1978, the qualification for the Headmaster of the Higher Secondary School is the Post Graduate Degree with 10 years teaching experience, out of which 2 years should have been as a Higher Secondary Assistant in any Higher Secondary Schools.

4. It was also contended by the 4th respondent that the qualification for the Higher Secondary School Headmaster has been further reviewed vide letter in Rc.No.1057/W8/93 dated 08.07.1996 fixing the qualification for the appointment of Higher Secondary School Headmaster as Post Graduation with B.Ed/BT qualification with 10 years teaching experience as B.T.Assistant and experience in feeder category of High School Headmaster or Headmaster in any Teacher Training School and P.G. Assistant, in any recognised school with service not less than 5 years. According to the 4th respondent, the petitioner did not have required qualification and the petitioner had acquired only 10 years of service in the category of B.T. Assistant and he has not at all rendered service as P.G.Assistant. Therefore, it is contended by the 4th respondent that the petitioner has not qualified to be



W.A.No.2320 of 2021

appointed as the Headmaster. Therefore, states that the rejection order is in conformity with the provisions under the Tamil Nadu Private Schools (Regulation) Act, 2018.

5. In line with the 4th respondent's counter statement, the 7th respondent qua the rival candidate, who has been subsequently impleaded and claiming to be appointed as Headmaster, contended that the petitioner did not qualify to be appointed as the Headmaster and that he [R7] is the only eligible person to be appointed as the Headmaster.

6. The Writ Court, after having considered both side contention, found that even though the petitioner being a Minority Educational Institution, by referring the judgment of the Hon'ble Supreme Court in ***Kolawana Gram Vikas Kendra Vs. State of Gujarat and others*** reported in (2010) 1 SCC 133 held that in respect of appointment of teaching staffs and other staffs, that too when they obtain grant from the Government, has to follow the Tamil Nadu Recognised Private Schools (Regulations) Rules, 1974. The Writ Court has also found that the petitioner did not possess the required qualification and ultimately dismissed the writ petition. Aggrieved with the same, the



W.A.No.2320 of 2021

petitioner has approached this Court by way of the instant Writ Appeal.

7. The learned Senior Counsel Mrs.G.Thilagavathi appearing for the appellant would vehemently contend that the 4th respondent has filed a contradictory counter statement. Whereas, at the first instance, in the counter statement filed on 04.10.2019, they have categorically admitted that the petitioner was serving in the cadre of B.T.Assistant till 2018. However, they took a different stand while filing the comprehensive affidavit that the designation of B.T.Assistant is by oversight deviating from their earlier submission. Therefore, the contention that the petitioner did not possess the required qualification cannot be countenanced. It was also contended by the learned Senior Counsel that by virtue of G.O.Ms.No.144 (School Education Department) dated 04.07.2008, the person, who has qualified in B.Ed and appointed to teach VI, VII and VIII in subject English, Science and Maths could be converted as B.T. Assistant post by the competent authority. It was also contended by the learned Senior counsel that by virtue of G.O.Ms.No.244 (School Education Va Se-2) dated 22.09.2007, the above benefit was extended to the Aided Schools also. Thus, the learned Senior Counsel would submit that the petitioner has got requisite qualification to be



W.A.No.2320 of 2021

appointed as the Headmaster in the Higher Secondary School. Therefore, the impugned order passed by the 4th respondent is contrary to law. Hence, prayed to allow the writ appeal.

8. Per contra, the learned Special Government Pleader appearing for the respondents 1 to 5 would vehemently contend that the petitioner did not possess the required qualification as contemplated under the Tamil Nadu Private Schools (Regulation) Act in Annexure V. It was also contended that by virtue of the letter in Rc.No.1057/W8/93 dated 08.07.1996, a candidate to be appointed as the Headmaster in Higher Secondary School should possess Post Graduation with B.Ed with 10 years teaching experience and also having 2 years experience in the feeder category. Whereas, the petitioner was not at all a B.T Assistant, and he was only the Junior Grade Secondary Grade Teacher, and he was not in the feeder category so as to consider him in the post of Headmaster. It was also contended that even though the 6th respondent School is a Minority Institution, they are bound by the Tamil Nadu Private Schools (Regulation) Act. Therefore, their proposal, sending the name of the petitioner for approval, who has no required qualification, has been rightly rejected. Hence, the learned Special Government Pleader would



W.A.No.2320 of 2021

submit that there are no merit in the writ appeal and hence, prayed to dismiss the same.

9. In line with the submissions made by the learned Special Government Pleader, the learned Senior Counsel Mr.G.Sankaran appearing on behalf of the 7th respondent, who is one of the main contesting respondent, and also the learned Senior Counsel Mr.V.Prakash appearing on behalf of the 6th respondent has supported the contentions urged by the learned Special Government Pleader.

10. We have given our anxious consideration to either side submissions.

11. The first and foremost submission raised by the learned counsel for the appellant is that, the 6th respondent in the writ petition, being the Minority Institution they are not bound by the Rules of the Tamil Nadu Private Schools (Regulation) Act. In this regard, the learned Single Judge has elaborately considered and has ultimately held the applicability of the Act by referring the judgment of the Hon'ble Supreme Court in ***Kolawana Gram Vikas***



W.A.No.2320 of 2021

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Kendra's case [cited supra] and the Division Bench judgment of this Court in ***The Government of Tamil Nadu, Education Department, Chennai and others Vs. St. Aloysius Higher Secondary School, Royappanpatti, Madurai District and batch etc.***, reported in **2011 (1) Mad LJ 1041**. According to the above reported case, though no prior approval is necessary for selection, but such selection and appointment has to be approved by the Government. It was further held that the appointment of the Teacher cannot be made unilaterally and that the person who possess requisite qualification alone can be appointed.

12. It was also further held that when the minority institution is receiving grant from the Government, it becomes mandatory on their part to seek the approval for the appointment to the sanctioned post. Therefore, the issue in respect of the application of Tamil Nadu Private Schools (Regulation) Act to minority aided educational institution is no longer *res integra*. Thus, the 6th respondent though Minority Institution, still they are bound by the Regulations under the Private Schools (Regulation) Act.



W.A.No.2320 of 2021

WEB COPY

13. Therefore, now the issues becomes narrow down as to the refusal to grant approval by the 4th respondent is in accordance with law. It is pertinent to mention here that the 4th respondent refused to grant approval on the ground that the petitioner did not possess the required qualification. According to Annexure V of the Tamil Nadu Private Schools (Regulation) Act, the following qualification for appointment to the post of Headmaster in the Higher Secondary School stipulated:-

<i>Name of the post</i>	<i>Qualification</i>
1. Headmaster or Headmistress (Higher Secondary Schools)	i) [A Master's Degree of a University in the State for teaching any of the languages under Parts I and II or subjects under Part III, Group "A" of the syllabus for Higher Secondary Courses or a Master's Degree of equivalent standard in any one of the subjects or languages, specified in the said syllabus or a certificate issued by the University of Madras for having under the Certificate Course in Science and Humanities for Graduate Teachers in High Schools during the year 1960-1964;] ii) B.T. Or B.Ed. Degree or its equivalent iii) Experience for a period of not less than ten years as B.T.Schools Assistant or Pandit in a Secondary School or Training School or Higher Secondary School recognised by the Director of School Education. Provided that the experience in the category of Headmaster and Headmistress in a school recognised by the Director of School Education shall be taken into account for calculating the experience in the category of B.T.Assistant.



W.A.No.2320 of 2021

14. Subsequently, the said qualification has been reviewed vide letter in Rc.No.1057/W8/93 dated 08.07.1996, which has been communicated to all CEO/DEO's as per Govt. Ir.58270/HS/95-1 dated 7.6.96 and the reviewed qualifications for the post of Higher Secondary School Headmaster is:-

“1. Post Graduation with B.ED/B.T qualification

With

2. 10 years teaching experience as B.T.Asst.

With

*3. Experience in feeder category of High School Head Master
(or) Head Master in any Teacher training School.*

*4. P.G.Asst., in any recognised school with service not less
than 5 years.”*

15. Therefore, it is obvious that a person to be appointed as the Headmaster of Higher Secondary School must have a Post Graduation degree with 10 years teaching experience and with experience in feeder category viz., as a High School Headmaster or Headmaster in any Teacher training School. Whereas, the petitioner was initially appointed on 29.08.2003 as Junior Grade Secondary Grade Teacher. Therefore, the petitioner was not at all a B.T Assistant. At this juncture, the learned Senior Counsel would invite the attention of this Court in respect of the endorsement made in the service



W.A.No.2320 of 2021

register of the petitioner as Junior Grade B.T. Assistant with effect from 01.06.2006. However, as rightly contended by the learned Special Government Pleader, there are no entries in the service register to infer any promotion of the petitioner to the cadre of Junior Grade B.T. Assistant. But, the entry in service register signify his promotion as the Middle Grade Assistant. Therefore, the main plank of the arguments put forth by the respondents that the petitioner did not have a requisite qualification, is well merited. Thus, we do not find any infirmity in refusing to grant approval for the petitioner to be appointed as Higher Secondary School Headmaster. Thus, there are no ground to interfere with the order of the Writ Court.

16. In the result, this Writ Appeal is dismissed. No costs. Consequently, connected CMPs are also closed.

[S.M.S., J.] [C.K., J.]
19.08.2024

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Index : Yes

Speaking order : Yes

Neutral Citation : Yes



W.A.No.2320 of 2021

To

1. The Secretary,
State Government of Tamil Nadu,
Education Department (Higher Education)
Fort St. George, Chennai-600 009.
2. The Director of Higher Secondary School Education,
College Road, DPI Compound,
Nungambakkam, Chennai-600 006.
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W.A.No.2320 of 2021

S.M.SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

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Pre-delivery judgment in
W.A.No.2320 of 2021

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